

Comment Letter I5

ATT: PDS PROJECT MANAGER: ASHLEY, GUNGLE RE: COMMENTS ON DRAFT EIR: JACUMBA SOLAR MAJOR USE PERMIT, PDS 2014-MUP-14-041; PDSS2014-ER-22-001 EIR COMMENTS –IRREGULARITIES RE: JCSD WATER AVAILABILITY PROCESSES, No. 2

A number of State Code and County process violations occurred in the processes, notices and forms surrounding Jacumba Solar use of Jacumba CSD water. The violations and misstatements invalidate the forms and approvals and require restart of the EIR.

I5-1

BACKGROUND

On August 22, 2014, Trey Driscoll of Dudek representing Jacumba Solar, appeared at a “regular” JCSD Board Meeting and gave the attached PDS 399W Water availability form to JCSD General Manager Debbie Troutt for JCSD Board approval and for her signature. JCSD, however, did not meet a Board Quorum of 3 Board members. The applicant part of the form was filled out, signed by Jacumba Solar Vice President Gregory Schneck and dated 08/25/2014. Debbie retained the form for Board review and possible approval.

I5-2

Later on, sometime prior to September 09, 2014, a notice/agenda (attached) was posted at the Jacumba Post Office for a “Special” JCSD Board Meeting at 12:00 on September 09, 2014 at the JCSD Office.

I5-2

The meeting was held as noticed, myself, Mike Alou, Trey Driscoll of Dudek and a Quorum of JCSD Board members were there. The first item on the agenda was titled “Nextera Water Sales”. Trey Driscoll presented his facts to the Board, working from a document dated September 4 and addressed to Debbie Troutt. A motion was made and the Board voted to approve the Water Availability 399W Form. The Board then addressed the second item on the agenda “Fall Festival Raffle”. The Board discussed the possible choices and made their choice of a raffle item for the fall Festival. The meeting was adjourned and Debbie and Trey went to the JCSD office to secure the signed form.

I5-3

IRREGULARITIES IN THE PROCESS

1. The posted notice did not specify who called the “Special Meeting”. Civil Code 5496a says that the request for a “Special Meeting” must come from the presiding officer or 50% of the Board. The notice has spaces labeled as “prepared by and also approved by”, both were left blank.
2. The same code section says that for “Special Meetings”, only one subject at a time can be considered, see the two items shown on the agenda and actually discussed and also voted on at the meeting.

I5-3

I5-4

5/31/15 BY HOWARD W COOK 1

Response to Comment Letter I5

**Howard Cook
May 31, 2015**

I5-1

The County acknowledges receipt of Howard Cook’s input and appreciates his comments regarding the potential impacts associated with implementation of the project. The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-2

The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-3

The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-4

The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

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3. The signed 399W form had been signed in advance of going to the 09/09/14 meeting. The same applicant signed form they had secured on August 22. There is evidence that a decision had been reached in advance of the Special Meeting. A possible violation of Civil Code 54953c that says: “no legislative body shall take action by secret ballot whether preliminary or final”.

15-5

4. Please note the **attached** submitted County 399W form (I secured a copy of the signed 399W document from San Diego PDS). Please see that the wrong first box is checked in Section A. The checked box says, “Project is in the District” and is signed by General Manager Debbie Troutt dated September 09, 2014. The project as previously commented on by me is definitely outside the Lafco designated boundaries. I believe that this action on the form was a willful violation to circumvent San Diego Lafco Sphere requirements and definitions.

15-6

REMEDIES

Since the signed form and also the process leading up to the signed form were contrary to several state laws as shown above, The Jacumba Solar EIR should be restarted, and all forms as well intents should be approved and resigned with the correct information. Citizens like me relied on the erroneous information about the project being in the district. I had previously made an issue of the out of district status of the project in my prior 05/28/2015 and 05/15/2015 EIR comments.

15-7

Alternative: Have the project applicant get its needed water from their alternative water vendor, Padre Dam, which seems to have their forms and information in order.

Attached items:

- JCSD Special Meeting 09/09/2014 Notice and Agenda
- Signed 399W form dated 09/09/14 as obtained from San Diego County PDS.

15-8

Howard W Cook – Jacumba, CA – 619-766-4640

5/31/15 BY HOWARD W COOK

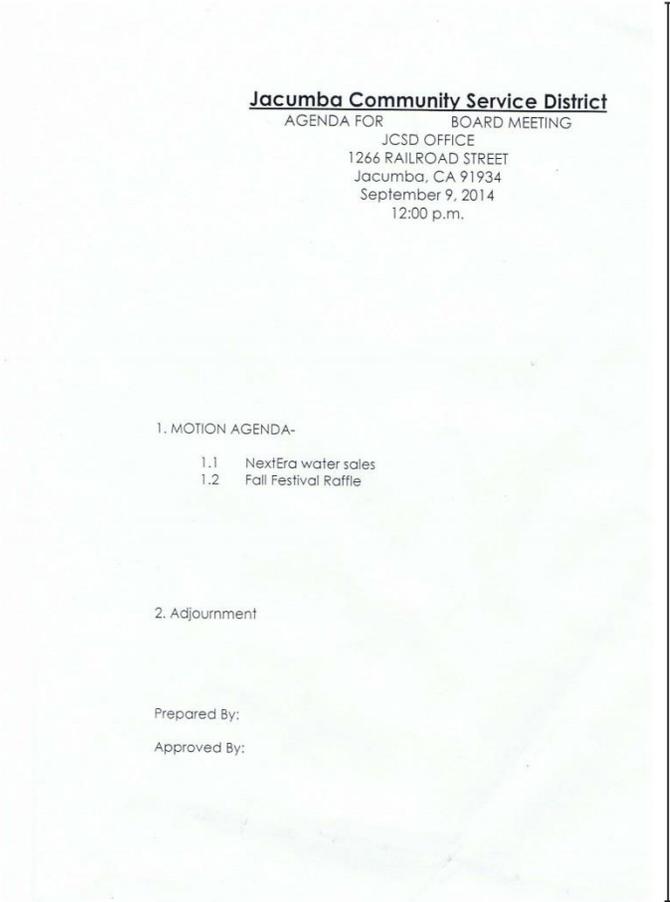
2

I5-5 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-6 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-7 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.

I5-8 The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required. Even if procedural missteps occurred (the County does not believe this to be the case), they do not undermine the evaluation of the Project’s environmental impacts or otherwise require a “restart” of the EIR.

 <p>Jacumba Community Service District AGENDA FOR BOARD MEETING JCSD OFFICE 1266 RAILROAD STREET Jacumba, CA 91934 September 9, 2014 12:00 p.m.</p> <p>1. MOTION AGENDA-</p> <p>1.1 NextEra water sales 1.2 Fall Festival Raffle</p> <p>2. Adjournment</p> <p>Prepared By: Approved By:</p> <p>I5-9</p>	<p>I5-9 This comment is a copy of the JCSD agenda for September 9, 2014. County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.</p>
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I5-10

This comment is a copy of the Project's completed PDS 399W, Project Facility Availability – Water form. The County acknowledges this comment; however it does not address the adequacy of the DEIR, therefore no further response is required.



Please type or use pen

Jacumba Solar, LLC (700) 946-4421

Owner's Name: Jacumba Solar, LLC
 700 Univera Boulevard
 County's Mailing Address: 700 Univera Boulevard, Juno Beach, FL 33408

ORG: _____
 ACCT: _____
 ACT: _____
 TASK: _____
 DATE: _____ AMT \$: _____

DISTRICT CASHIER'S USE ONLY

SECTION 1: PROJECT DESCRIPTION

TO BE COMPLETED BY APPLICANT

A. Major Subdivision (TM) Specific Plan or Specific Plan Amendment
 Minor Subdivision (TMS) Certificate of Compliance

Assessor's Parcel Number(s) (Add extra if necessary)

661-041-02	661-080-05
661-041-03	661-080-08
661-080-01	
661-080-04	

B. Residential: Total number of dwelling units _____
 Commercial: Gross floor area _____
 Industrial: Gross floor area _____
 Other: Gross floor area _____

C. Total Project coverage: 304. Total number of lots: N/A
 Thomas Guide Page: 430 Grid: F9
 T. 18 S. R. 8. E. SBW/4 2.9 miles east of Jacumba
 Project address: _____
 Mountain Empire/Jacumba Subregion: _____
 Community Planning Area/Subregion: _____ Zip: _____

D. Is the project proposing the use of groundwater? Yes No
 Is the project proposing the use of reclaimed water? Yes No

Owner/Applicant agrees to pay all necessary construction costs, dedicate all district required easements to extend service to the project and COMPLETE ALL CONDITIONS REQUIRED BY THE DISTRICT.

Applicant's Signature: _____ Date: 8-25-14
 Gregory Schneck
 Address: 700 Univera Boulevard, Juno Beach, FL 33408 Phone: (700) 946-4421
 Vice President

SECTION 2: FACILITY AVAILABILITY

TO BE COMPLETED BY DISTRICT

District Name: Jacumba Community Service District Service area: Jacumba

A. Project is in the district.
 Project is not in the district but is within its Sphere of Influence boundary, annex must apply for annexation.
 Project is not in the district and is not within its Sphere of Influence boundary.
 The project is not located entirely within the district and a potential boundary issue exists with the _____ District.

B. Facilities to serve the project ARE ARE NOT reasonably expected to be available within the next 5 years based on the capital facility plans of the district. Explain in space below or on attached _____ (Number of sheets) _____
 Project will not be served for the following reason(s): _____

C. District conditions are attached. Number of sheets attached: _____
 District has specific water exclamation conditions which are attached. Number of sheets attached: _____
 District will amend conditions at a later date.
 How far will the pipeline(s) have to be extended to serve the project? _____

This Project Facility Availability Form is valid until final discretionary action is taken pursuant to the application for the proposed project or until it is withdrawn, unless a shorter expiration date is otherwise noted.

Authorized Signature: Debby Troutt Date: 9/19/14
 Phone: 619 766 4359

Print Title: General Manager

NOTE: THIS DOCUMENT IS NOT A COMMITMENT OF SERVICE OR FACILITIES BY THE DISTRICT
 On completion of Section 2 and 3 by the District, applicant is to submit this form with application to
 Planning & Development Services - Zoning Counter, 6510 Highland Ave., Suite 113, San Diego, CA 92123

PDS-399W (Rev. 08/21/2012)

I5-10